SOUTHERN COMMUNICATIONS LIMITED
TERMS AND CONDITIONS FOR CALLS & LINE RENTAL

1. DEFINITIONS AND INTERPRETATION

1.1. In these terms and conditions (**Terms**) the following words shall have the following meanings:

Agreement	the agreement between you and SCL for the supply of the Services in accordance with the Order and these Terms;
BT	British Telecommunications plc and its associated companies;
Call Charges	SCL's charges for calls made on the System (including reverse charge calls) as set out in the Order or as otherwise notified to the Customer by SCL from time to time;
Call Recording Service	any call recording service offered to the Customer by SCL;
Calls & Lines Services	the services for calls & lines that SCL provides to the Customer (as set out in the Order) by means of the System;
Charges	the charges as notified to the Customer from time to time and payable by the Customer to SCL for the Services;
CLI	the calling line identity of a calling party;
Commencement Date	the date of the Agreement;
Confidential Information	any and all information whether disclosed in written or oral or machine-readable form or otherwise including without limitation information relating to SCL's services, equipment, operations, know-how, trade secrets and information of commercial value;
Connection Charge	the non-refundable charge (if any) payable by the Customer for installation and connection to the System as set out in the Order or as otherwise notified by SCL;
Connection Point	includes a terminal block, a socket for a removable plug, a distribution frame, or any other device which SCL fixes at any of the Sites to connect the Customer's equipment to an Exchange Line;
Customer, you	the individual, company, entity, organisation or business that purchases the Services from SCL;
DPA	the Data Protection Act 1998;
Early Termination Fee	means: (i) all Charges that are accrued up to and including the date of termination; plus (ii) an average per day value of the Call Charges accrued by the Customer in the three months prior to the date of termination chargeable each day from the date of termination until the date of expiry of the Minimum Term, Renewed Minimum Term or Subsequent Term (as the

case may be); plus

(iii) the total amounts of all Exchange Line Rental Charges still remaining on the Minimum Term, Renewed Term or Subsequent Term (as the case may be) from the date of termination until the date of expiry of the Minimum Term, Renewed Minimum Term or Subsequent Term (as the case may be);

ESTN	Ethernet Services Telephone Network.
Exchange Line	any apparatus forming part of the System used by SCL to connect the Site to a telephone exchange to provide the Services;
IPR	patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;
ISDN Services	the telephone services that SCL provides to the Customer (as specified in the Order) by means of the System;
Minimum Term	means twelve (12) months (or such other minimum period as is set out in the Order) from the date the Order is signed by the Customer;
Network	the fixed line telecommunications network operated by a Network Operator;
Network Operator	a network operator who operates a Network to which a line is connected in accordance with an agreement between the Network Operator and SCL;
OFCOM	the Office of Communications or other replacement authority;
Order	the Customer's order for the Services;
Personal Data	personal data, as defined in the DPA;
Recording	any recording of the Customer's calls resulting from the Call Recording Services;
Renewed Term	the renewed term agreed with SCL in writing in accordance with Clause 3.3;
Rental	the monthly fee (including line rental, equipment rental, and other rental) payable by the Customer for the Services, as set out in the Order or as otherwise notified by SCL;
Services	the ISDN Services and/or the Calls & Lines Services, Voice Safe Services, ESTN and other call services as set out in the Order that SCL agrees to supply to the Customer;

SIP	means Session Initiation Protocol.
SIP Trunk	a voice over IP (VoIP) subscription and streaming media service based on the SIP by which SCL will deliver the Calls & Lines Services to the Customer.
Site	the site(s) at which SCL shall provide the Services;
Subsequent Term	a minimum of twelve (12) months (or such other period set out in the Order);
SCL, **We**	Southern Communications Limited (Company Number: 1328040) whose Registered Office is at Glebe Farm, Down Street, Dummer, Hampshire, RG25 2AD;
SCL's Equipment	includes any equipment owned by SCL or its licensors that SCL uses to provide the Services;
System	the Network that SCL uses to provide the Services;
Voice Safe Service	the services as set out in Clause 4.12 that SCL may agree in writing to provide to the Customer;
Working Day	09:00 to 17:00 Monday to Friday but excluding public holidays in the United Kingdom.

1.2. **Construction**. In these Terms, the following rules apply:

1.2.1. a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

1.2.2. a reference to **writing** or **written** includes faxes and e-mails.

1.2.3. a reference in these Terms to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

1.2.4. headings in the Agreement shall not affect interpretation.

2. **ORDERS**

2.1. The Order constitutes an offer by the Customer to purchase the Services in accordance with these Terms.

2.2. No order placed by the Customer shall be accepted by SCL until the Order is accepted by SCL or (if earlier) SCL provides the Services to the Customer.

2.3. Once an Order has been accepted by SCL, the Customer may not cancel an Order.

2.4. SCL may accept or reject an Order at its sole discretion.

2.5. The Agreement constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of SCL which is not set out in the Agreement.

2.6. These Terms apply to the Agreement to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

3. **MINIMUM TERM, SUBSEQUENT TERM, RENEWED TERM AND EARLY TERMINATION FEE**

3.1. The Agreement shall commence on the Commencement Date and will continue for the Minimum Term and any Renewed Term or Subsequent Term.

3.2. The Customer acknowledges that it has limited rights to terminate the Agreement during the Minimum Term, Renewed Term or Subsequent Term (as the case may be). These rights are set out in Clause 10.1.

3.3. If upon the expiry of the Minimum Term, Renewed Term or Subsequent Term (as the case may be) the Customer has not;

3.3.1. agreed a Renewed Term; or

3.3.2. given notice to SCL in accordance with Clause 10.1

SCL will continue to supply the Services to the Customer for the Subsequent Term unless the Customer terminates the Agreement as set out in Clause 10.1.

3.4. If a Renewed Term has been agreed SCL will continue to supply the Services to the Customer for the Renewed Term unless the Customer terminates the Agreement as set out in Clause 10.1.

3.5. If the Customer terminates the Agreement before the expiry of the Minimum Term, Renewed Term or Subsequent Term, the Customer shall pay the Early Termination Fee.

4. **CONNECTION OF THE CUSTOMER'S EQUIPMENT**

CALLS AND LINES SERVICES ONLY

4.1. The Calls & Lines Services are available only if the Customer has a valid contract for the use of an analogue Exchange Line (in the case of the wholesale access Service) or digital Exchange Line capable of supporting an existing ISDN30 service (in the case of wholesale ISDN30 Service) direct Exchange Line (for each Exchange Line being ordered) which terminates on a Connection Point or SIP Trunk based exchange on any type of data circuit. If such contract does not exist, the Customer must request SCL to have an Exchange Line, Connection Point and/or ISDN30 bearer installed, as appropriate.

4.2. The Customer acknowledges that certain technical constraints relate to the Services or that certain services are incompatible with the Calls & Lines Services available from BT or other Network Provider, and such incompatible services are excluded from the Services. The Customer also acknowledges that some technical limitations within the System may not become apparent until after the Services have been working for some time. In such circumstances, with the agreement of the Customer, the Services may need to be withdrawn in which case the Customer shall be entitled to a pro rata rebate of any relevant Charges paid in advance by the Customer. Where the Customer insists the Service is to remain SCL shall have no liability in relation to such Service.

4.3. There may be geographical and technical limitations that may affect or prevent installation of a specific Service. Accordingly, the Customer accepts that the provision of a Service is subject to a Site survey. Where SCL is aware of any limitations following the survey that may impact provisioning or where the Service cannot be provided SCL will contact the Customer within two Working Days and cancel the impacted Service without charge.

4.4. The Customer agrees to route all of their calls to SCL for the duration of the Agreement. Should the customer fail to comply with this Clause 4.4, the charges as stated in Clause 8.5 will be applicable.

CALLS & LINES SERVICE AND ISDN SERVICE

4.5. The Customer understands and accepts that the SCL may rely upon BT's or other Network Operator's co-operation in providing the Services or that the provision of the Services are governed by BT or other Network Operator and SCL relies upon such Network Operator's co-operation. Accordingly:

4.5.1. SCL gives no warranty, representation or undertaking as to the speed, quality or validity of the Services. No liability shall accrue to or be incurred by SCL arising from any failure of or delay suffered by the Customer; and

4.5.2. the provision of the Services requires that BT or other Network Operator undertakes programming at exchange level. Accordingly, it is agreed that any act, default or delay by BT or other Network Operator in carrying out such programming or otherwise relating to or affecting the Services shall not be the responsibility of SCL.

4.6. The Customer hereby agrees to the termination of its existing contract for equivalent services with the applicable communications service provider. The Customer shall provide SCL with any relevant account and calling line identification numbers that may be required by BT or other Network Operator. The Customer acknowledges that SCL cannot process the provisions of the Services until such information is provided by the Customer.

4.7. The Customer's equipment to be connected with the Services shall be connected by means of Connection Points and ancillary wiring both as installed and maintained by SCL. If the Customer wishes a Connection Point to be moved to another place within the Site, SCL may agree, subject to payment of SCL's applicable charges. Unless otherwise agreed in an Order, the Customer will be responsible for the supply, maintenance and upgrade of necessary telephony equipment.

4.8. **Call Recording Provisioning**

4.8.1. In order to provide any Call Recording Service, each call to be recorded must be routed over the Network.

4.8.2. The Customer warrants to SCL that it has authorised SCL to act on their behalf in respect of their Recordings.

4.8.3. Subject to any applicable legislation (for example any data protection legislation) the Recordings and any data contained within the Recordings are the property of the Customer.

4.8.4. The Customer acknowledges and is aware, that the Customer is responsible for all content within each Recording and shall ensure that all necessary steps are taken to ensure such content complies with the requirements of any legislation.

4.8.5. The Customer shall notify SCL of all numbers that it requires to be recorded by any Call Recording Service and the Customer is solely responsible for notifying SCL of any changes, deletions or amendments to any such numbers.

4.8.6. Unless otherwise agreed in writing by SCL, SCL shall commence recording of calls automatically on call answer and shall terminate recording on call release.

4.8.7. Subject to Clause 4.8.12, the Customer acknowledges that save with the Customer's prior written consent, SCL shall not, and has no obligation to, review or edit any of the Recordings and that the extent to which the Customer reviews, edits or deletes Recordings is entirely the responsibility of the Customer.

4.8.8. SCL shall only allow access to the Recordings to a party who has the correct access details.

4.8.9. Without prejudice to the obligations placed upon the Customer pursuant to this Clause 4.8 SCL reserves the right to refuse access to any Recordings subject to being provided with such evidence as it may require that the relevant requestee has authority to access such Recordings.

4.8.10. SCL will store two copies of all Recordings for the number of days set out in the Order after the date the Recording was made and will charge the Customer for such storage at SCL's then current rate for Call Recording Services after which time they will be automatically deleted.

4.8.11. Immediately following termination of any Call Recording Service SCL reserves the right to delete all Recordings relating to such Call Recording Service unless expressly agreed otherwise in writing with the Customer in advance.

4.8.12. SCL reserves the right to access, retain and disclose the Recordings or copies of them for the purposes of:

4.8.12.1. complying with its obligations under any agreement between SCL and a Network Operator;

4.8.12.2. observing the performance of any Call Recording Service including for service level monitoring;

4.8.12.3. retaining a record of activity on SCL's equipment or systems;

4.8.12.4. performing emergency maintenance or resolving any faults within any Recording;

4.8.12.5. compliance with legislation or with any instruction from a court of competent jurisdiction or other regulatory authority; or

4.8.12.6. complying with a written request from the Customer for information about or disclosure of its Recordings.

4.8.13. Due to the nature of the Services, it is technically impossible to provide the Services fault free and SCL does not undertake to do so. Accordingly:

4.8.13.1. it is the Customer's responsibility to report to SCL as soon as reasonably practicable any faults or suspected faults with the Call Recording Service;

4.8.13.2. subject to the provisions of these Terms SCL will use reasonable endeavours to provide continuous access to the Recordings but cannot guarantee all calls are recorded at all times and cannot be liable for any lost, corrupted or failed Recordings; and

4.8.13.3. the Customer shall promptly download any Recordings which it deems important.

4.9. The Customer shall, at SCL’s request, arrange for the Customer’s equipment to be reprogrammed by its designated maintainer in accordance with instructions provided by SCL, to enable any indirect or other access. SCL will have no responsibility in respect of such reprogramming.

4.10. Following termination of the Agreement, if there is any programming on the Customer’s equipment to route calls via the System the Customer shall be responsible for arranging for such programming to be removed and may be subject to payment of SCL’s applicable charges. If the new supplier fails to successfully transfer the Services then the Customer shall remain liable for the Charges after the date of termination until transfer is complete.

4.11. The Customer shall:

4.11.1. provide a suitable and safe working environment for SCL, BT or Network Operator and anyone acting on their behalf, at the Site; and

4.11.2. ensure that any Site where SCL, BT or Network Operator and anyone acting on their behalf shall be carrying out work in relation the Services shall comply with all applicable laws.

VOICE SAFE SERVICES

4.12. SCL will provide a Voice Safe Service to the Customer whereby:

4.12.1. SCL shall use its reasonable endeavours to ensure that the Customer does not experience call fraud in relation to numbers registered on the Customer's account; and

4.12.2. any outbound calls to numbers that SCL is aware of that:

4.12.2.1. could be used in a fraudulent way; or

4.12.2.2. are being used in a fraudulent way

will be barred from being called at the carrier level and, where SCL maintains the customer equipment, at equipment level. This bar may be removed at SCL's sole discretion.

4.13. The Charges for the VoiceSafe service will be £1.00 per line per month and payment will be due in accordance with Clause 8. The number of lines per telephone number will be calculated by the number of live lines associated to the service/telephone number where the line rental may or may not be billed by SCL.

4.14. Subject to Clause 4.15 and Clause 11, if the Customer experiences call fraud in relation to numbers registered on the Customer's account, SCL will pay compensation to the Customer of up to a maximum amount of £10,000.00 to cover this fraud for call fraud instances in excess of £125.00.

4.15. The Customer acknowledges and agrees that:

4.15.1. payment of the VoiceSafe compensation pursuant to Clause 4.14 will require a valid Crime Reference Number for the fraud incidence in question and will not be payable should the outbound fraud calls be generated to numbers belonging to the Customer; and

4.15.2. SCL will only provide the VoiceSafe service to the Customer on numbers capable of making outbound calls on one or more of the Networks that SCL has registered the Customer to have access to, but only where SCL receives the call traffic costs. Where fraud calls are made on a network not supplied and billed by SCL then the VoiceSafe service cannot be provided and no compensation will become payable in the event that fraud calls are billed directly to the Customer by other call providers.

5. **SCL'S GENERAL OBLIGATIONS**

5.1. SCL shall supply the Services to the Customer from the Commencement Date for the term of the Agreement in accordance with these Terms.

5.2. SCL shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and SCL shall notify the Customer in any such event.

5.3. The provision of the Services is subject to all relevant licences, infrastructure (or interconnect arrangements) and consents being in place. The Customer shall obtain any consent or facility that is necessary or desirable for SCL to provide the Services at the Site.

5.4. SCL may:

5.4.1. change or withdraw some, or part, of the Services from time to time. This may be because of changing technologies, obsolescence, new or different product features, changing content providers or the need to remove, replace or modify content; and

5.4.2. determine how the Services are presented and delivered or are otherwise made available to the Customer. SCL can change the way they are presented, delivered or otherwise made available to the Customer at any time.

5.5. The Services will be provided within SCL's Network Operator's network area but it's always possible that the quality or coverage may be affected at times.

5.6. SCL shall exercise the reasonable care and skill of a competent telecommunications operator. The Customer acknowledges that:

5.6.1. SCL cannot guarantee that the Services will be available without interruption or will be free from error;

5.6.2. the Services have not been developed to meet their individual requirements and that it is therefore the Customer's responsibility to ensure that the facilities and functions of the Services meets their requirements;

5.6.3. the operability, quality and availability of the Services may sometimes be affected by factors outside SCL's, BT's or the Network Operator's control such as physical obstructions, atmospheric conditions and other causes of radio interference, faults in other telecommunication networks or other events;

5.6.4. the existence of any minor errors in the Services shall not constitute a breach of the Agreement; and

5.6.5. SCL, BT or other Network Operator may at any time and without liability modify, expand, improve, maintain or repair the Services and this may require suspension of the operation or provision of the Services

and SCL shall have no liability to the Customer in connection with any such adverse effect on the quality and availability of the Services.

5.7. SCL shall use reasonable endeavours to meet any agreed dates but shall not be liable for failure to meet them. Time shall not be of the essence of the Agreement.

5.8. The Customer shall report any fault in the Services to SCL's Customer Services Department as soon as reasonably practicable, where it will be dealt with in accordance with the agreed fault repair service or any applicable service level agreement. SCL shall not be obliged to fix any fault if:

5.8.1. the defect arises because the Customer failed to follow any user manual or other documentation available from the manufacturer or SCL's oral or written instructions as to the use or maintenance of the Services or (if there are none) good trade practice;

5.8.2. the defect is caused by improper use of the Services or use outside its normal application;

If SCL agrees to fix a fault:

5.8.3. caused by the circumstances set out in this Clause 5.8; or

5.8.4. caused by the Customer; or

5.8.5. that otherwise falls outside the responsibility of SCL; or

5.8.6. where no fault is subsequently found

SCL may charge the Customer for such work at its applicable man-hour rate.

5.9. SCL shall not be liable for any fault whether under Clause 5.8 or otherwise unless the Customer gives written notice of the defect to SCL within seven (7) days of the time when the Customer discovers or ought to have discovered the defect.

5.10. **Service Levels**

5.10.1. In fulfilling its obligations under these Terms SCL shall provide support to the Customer for the Services as follows:

5.10.1.1. **Level 1**: Cover is provided Mon-Fri 0800-1800 and the expected repair time from the point the fault is logged is end of Next Working Day plus 1.

5.10.1.2. **Level 2**: Cover is provided Mon-Sat 0800-1800 and the expected repair time from the point the fault is logged is end of Next Working Day.

5.10.1.3. **Level 3**: Cover Mon-Sun and the timings for cover are Mon-Fri 0700-2100 and Sat-Sun 0800-1800. The expected repair time if the fault is logged by 1300 is the same day and if logged after 1300 would be by lunch time the next day.

5.10.1.4. **Level 4**: Cover 24/7 with a 6hr expected repair.

5.10.2. The technical specification of each Service and manner in which SCL discharges its obligations under these Terms is at the sole discretion of SCL.

5.10.3. If the Customer instructs SCL to dispatch a SCL representative to any site to investigate a possible fault, SCL reserves the right to invoice the Customer for the visit should the fault be found to be with the Customer's network.

5.10.4. Where at the Customer's request SCL spends time investigating any fault which is repeatedly or continuously reported by the Customer and SCL concludes each time that there has been no service failure, SCL reserves the right to charge the Customer for all reasonable costs and expenses incurred in investigating the alleged Service Failure and the Customer agrees to pay such charges in accordance with Clause 8.

5.10.5. The Customer shall be responsible for claiming any service credit in accordance with the applicable service level agreement. Where a valid claim is made and the Customer becomes entitled to a service credit, SCL will issue a credit note to the Customer for an amount equal to the applicable service credit.

5.10.6. In order to receive an available service credit, the Customer must give notice to SCL, within 15 days of the end of the calendar month for which the service credit is claimed. If the Customer fails to claim the service credit to which it is entitled, the Customer shall be deemed to have waived its right to claim the service credit.

5.10.7. Service credits will not be available to the Customer to the extent that SCL fails to meet any service levels as a result of:

5.10.7.1. an act, fault or omission by the Customer, or any of its representatives, employees, agents or sub-contractors;

5.10.7.2. any equipment not supplied by SCL or a Network Operator;

5.10.7.3. any circumstances beyond SCL's control;

5.10.7.4. any failure by the Customer to act on SCL's reasonable instructions;

5.10.7.5. any suspension of the Services under Clause 9; or

5.10.7.6. any other event specified in the applicable service level agreement.

5.10.8. The duration of any Service fault, for the purposes of calculating service credits, will be measured from the time the fault report is logged by the SCL Customer Services Department to the time SCL can demonstrate that the Service has been restored to the standards set out in the applicable service level agreement.

5.10.9. Where the Customer suffers a fault or interruption in respect of any Service, SCL acknowledges that, in relation to such Service, the Customer is entitled to arrange for traffic to be redirected to another operator and the Customer agrees that, subject to compliance with any obligations in each applicable service level agreement, it is not SCL's responsibility to arrange for the provision of alternative services in such circumstances.

6. THE CUSTOMER'S OBLIGATIONS

6.1. The Customer may only use Services:

6.1.1. as laid out in the Agreement; and

6.1.2. for their own use. The Customer may not resell or commercially exploit any of the Services or content without the prior written consent of the Company.

6.2. The Customer shall not utilise and shall ensure that no other person uses the Services or the telephone number(s) allocated to the Customer:

6.2.1. for purposes other than the genuine conveyance of calls;

6.2.2. for storing, reproducing, transmitting, communicating or receiving any material in breach of any law, regulation, code of practice or in breach of SCL's acceptable use policy; or

6.2.3. fraudulently or for any criminal or illegal purpose or in a manner that is contrary to any regulatory or legal requirement; or

6.2.4. to make defamatory, offensive, obscene, indecent, menacing, abusive, nuisance or hoax calls; or

6.2.5. to cause annoyance, inconvenience or needless anxiety to any person; or

6.2.6. contrary to instructions that SCL may give to the Customer from time to time; or

6.2.7. to copy, store, modify, publish or distribute services or content (including ringtones), except where SCL gives the Customer prior permission in writing; or

6.2.8. to download, send or upload content of an excessive size, quantity or frequency. SCL will contact the Customer if the Customers use is excessive; or

6.2.9. in violation of any applicable local, national, or international law or regulation;

6.2.10. in a manner which infringes the rights of any person, including intellectual property rights and rights of confidentiality.

6.3. SCL may publish an acceptable use policy which provides more detail about the rules for use of certain Services in order to ensure that use of Services is not excessive, or to combat fraud and where Services SCL may introduce require certain rules to ensure they can be enjoyed by the Customer. If SCL publishes a policy, SCL will let the Customer know – such a policy may be amended from time to time.

6.4. The Customer will not use the Services to access any computer, network, or data without authorisation or in a manner which exceeds authorisation including, any attempt to:

6.4.1. retrieve, alter, or destroy data;

6.4.2. probe, scan or test the vulnerability of a system or network; or

6.4.3. breach, or defeat system or network security, authentication, authorisation, confidentiality, intrusion detection, monitoring, or other security measures.

6.5. The Customer shall co-operate with and comply with at all times:

6.5.1. any operating procedures and any other technical requirements of SCL as may be notified to the Customer from time to time

6.5.2. SCL's reasonable instructions to ensure the proper use and security of the Services.

6.6. The Customer must only use SCL's Equipment authorised by SCL for Connection to the Network and also comply with all relevant legislation relating to their use.

6.7. The Customer will provide SCL with all up to date and accurate information that SCL needs to provide the Services and allow SCL to use that information for credit checking and debt collection (including disclosure to and Data use by third parties acting for SCL) and any other uses and disclosures permitted under the DPA and will allow SCL to disclose such information to the extent that SCL is required to do so by PhonepayPlus, OFCOM, the law or any relevant authority.

6.8. The Customer shall:

6.8.1. keep all of SCL's Equipment at the Site safe and shall pay for the replacement and/or repair of any of SCL's Equipment which is lost, damaged (otherwise than by fair wear and tear) or destroyed by an act or omission of the Customer, its employees, agents or subcontractors;

6.8.2. not alter or move any of SCL's Equipment, nor do anything that is likely to damage or adversely affect its performance, nor remove or deface any words or signs on it, nor permit anyone else to do so;

6.8.3. not modify, move, relocate or in any way interfere with such Service Equipment;

6.8.4. not cause the SCL's Equipment to be repaired, serviced or otherwise attended to except by an authorised representative of SCL;

6.8.5. insure and keep insured all SCL's Equipment;

6.8.6. use the SCL Equipment only for the purpose of receiving the Services and in accordance with such reasonable instructions as may be given by SCL from time to time; and

6.8.7. permit SCL to inspect or test the SCL Equipment at all reasonable times.

6.9. It is the Customer's responsibility to make sure that SCL's Equipment is only used to access Services as permitted.

6.10. The Customer shall not sell, let, mortgage, charge, pledge, dispose of or do anything that would prejudice SCL's Equipment in any way. The Customer will allow SCL to inspect, test, modify, change, add to, replace or remove any SCL's Equipment, either remotely or via a designated maintainer. At the end of the term of the Agreement, the Customer will allow SCL access at all reasonable times to collect any of SCL's Equipment in the Customer's possession.

6.11. The Customer shall at its own cost arrange for the required Site specific conditions, as notified by SCL. This will include, without limitation, mains electricity supply, Connection Points and computer terminals. The Customer shall prepare the Sites in accordance with SCL's reasonable instructions and reinstate them at the Customer's expense after SCL has completed any work necessary for SCL to be able to provide the Services.

6.12. The Customer shall ensure that any equipment (excluding SCL's Equipment) that it uses in connection with the Services meets any legal or regulatory requirements and is approved for connection to the System. If not, the Customer must immediately disconnect it or allow SCL to do so at the Customer's expense.

6.13. The Customer shall indemnify SCL against all costs, damages, expenses and losses and reasonable professional costs and expenses suffered or incurred by SCL arising out of or in connection with breach by or other act or omission of the Customer under or in relation to the Agreement.

6.14. Where SCL is providing Calls & Lines Service:

6.14.1. the Customer shall comply with any requirements notified by SCL relating to number portability; and

6.14.2. where the Customer's existing account with BT includes BT equipment which is not required for the provision of the Services, the Customer shall contact BT in order to remove the BT equipment or move such equipment to another BT account.

7. TELEPHONE NUMBERS, CODES AND DIRECTORIES

7.1. SCL will allocate a telephone number to the Customer in respect of the Exchange Line and, unless the Customer requests otherwise, will arrange for a free standard entry to be made in a telephone directory published by BT or any other operator (as appropriate). If SCL agrees to arrange a special entry (for which a charge would be made), this will be subject to additional terms and conditions.

7.2. SCL may alter the name or number of a telephone exchange serving the Exchange Line, the telephone number, or any other name, code or number whatsoever that SCL allocates to the Customer in instances where such alterations are required as a result of necessary operational or technical changes to the Network or changes in legal or regulatory requirements.

7.3. Where SCL allocates telephone numbers to the Customer, the Customer will not (subject to any statutory or licence provisions relating to number portability) acquire any rights whatsoever in such telephone numbers. The Customer will not apply for registration of the telephone numbers as part of a trademark.

7.4. The Customer acknowledges and agrees that allocated phone number(s) may have been listed in a directory and/or on a website(s) or other publications at the request of a previous subscriber; this is beyond SCL's control and SCL shall not be held liable for any resulting harm or loss. If phone calls are received from a previous subscriber's callers, please contact

SCL immediately to cancel the phone number(s) and select replacement phone number(s). Please note that no credit(s) will be applied to the Customer for any such calls.

7.5. SCL will not reimburse the Customer, in any way, for any cost(s) associated with the publication of allocated SCL phone number(s). The Customer shall be solely responsible for any costs, fees, damages and/or losses related to the publication of the phone number(s) provided by SCL.

7.6. If SCL has an agreement with the Customer's existing telecommunications service provider, SCL can, at the Customer's request, provide the Customer with a telephone line using the Customer's existing number subject to the following:

7.6.1. there are no technical reasons preventing the use of the number;

7.6.2. the existing telecommunications service provider agrees to release the relevant telephone number(s);

7.6.3. the Customer agrees to cease service on the existing telecommunications service provider's telephone line using the telephone number and authorises SCL to arrange such cessation to take place;

7.6.4. the Customer provides SCL with full details including (but not limited to) the account name, account number, service address and billing address;

7.6.5. the Customer paying SCL's charges (if any) for number portability; and

7.6.6. number portability being available at the Site.

7.7. SCL does not accept any liability for claims relating to the Customer's ability to use or continue use of a particular telephone number.

8. CHARGES AND PAYMENT

8.1. The Customer shall pay the Charges.

8.2. SCL shall be entitled to send an invoice to the Customer for:

8.2.1. the Connection Charge when the Services are made available to the Customer;

8.2.2. the Rental monthly in advance and:

8.2.3. the Call Charges after the end of the month in which the relevant calls were made.

8.3. The Call Charges will be calculated using the details recorded or logged at SCL's telephone exchange and not details recorded by the Customer.

8.4. The Customer shall pay all Rental and Call Charges whether the Customer or someone else uses the Services. SCL shall not and shall not be under any obligation (express or implied) to monitor the Customer's calls, call usage and/or patterns of usage.

8.5. Where SCL is providing Calls & Lines Services the Customer shall pay any cancellation charges, abortive visit charges, engineering visit or site survey charges, or maintenance service charges imposed on SCL by BT and relating to the Calls & Lines Service, save where such abortive visit or service maintenance charges arise through SCL's default.

8.6. Where the Charges have been based upon Calls & Lines Service being provided as part of the Services or independently of other services the Customer acknowledges that:

8.6.1. if the majority of Exchange Line rental ceases to be provided, SCL shall be entitled to amend its Call Charges to its then higher standard charges;

8.6.2. if the majority of Call Charges ceases to be provided, SCL shall be entitled to amend its Exchange Line Rental charges to its then higher standard charges;

8.6.3. if the majority of Exchange Line Rental and Call Charges cease to be provided the agreement shall terminate and the Early Termination Fee will apply unless the business returns within 30 working days.

8.7. The Rental shall continue to be payable during any period of suspension or restriction requested by the Customer in addition to any Charges for such suspension or restriction.

8.8. The Customer shall pay the full amount invoiced by SCL by direct debit within fourteen (14) days of the date of invoice. If the Customer's credit rating decreases at any time, SCL shall be entitled to revise the credit terms to require payment upon invoice or in less than fourteen (14) days.

8.9. The Customer shall pay the Charges in pounds sterling without set-off or deduction.

8.10. The Charges are exclusive of Value Added Tax, which shall be payable by the Customer in addition to the Charges at the rate applicable from time to time.

8.11. Time for payment of the Charges shall be of the essence of the Agreement.

8.12. If the Customer fails to make payment in full by the due date, in addition to SCL's right to suspend the Services as set out in Clause 9.1, SCL may charge interest at the rate of 4% per annum above the base rate of the National Westminster Bank plc on any amounts outstanding from the due date for payment until payment is made in full.

8.13. SCL will give the customer as much prior notice as practicable of any alteration to the charges and in any event not less than 1 month's prior notice of such change. This notice may be included in an invoice to the Customer. If SCL increases the Charges by more than the Retail Price Index during the Minimum Term, the Customer may terminate the Agreement on written notice to SCL within ten (10) days of receipt of the notice of increase, without the obligation to pay the Early Termination Fee.

8.14. SCL may also change the level of its Charges during or after the Minimum Term as a consequence of:

8.14.1. any OFCOM direction, determination, order or similar decision; or

8.14.2. any notice issued by BT or other Network Operator correcting an error in the amount or application of a charge or payment under it's interconnect agreement with SCL.

In both cases, SCL shall only be entitled to change the level of its Charges where the foregoing impacts upon the basis upon which the Charges were calculated.

8.15. If the Customer disputes any invoice (including the calculation of any amounts payable) they must notify SCL within 6 months of the date of the invoice. The Customer shall not be entitled to any credit or refund relating to disputes raised after expiry of this period.

8.16. The Customer shall pay any charges raised to cover time spent dealing with matters (such as repairing faults) where this work is not covered under any of the terms of the Agreement. Such Charges could involve the provision or rearrangement of equipment, wiring, network or services.

8.17. If SCL becomes liable to pay any additional fees, costs or charges to the Government, a regulatory authority or self-regulatory authority and such fees, costs or charges are directly

attributable to the provision of Services to the Customer under the Agreement, SCL shall be entitled to pass through such fees, costs and charges to the Customer with immediate effect.

8.18. Where SCL agrees to do work outside a Working Day at the request of the Customer, SCL may charge the Customer in accordance with SCL's applicable man-hour rate.

9. SUSPENSION AND VARIATION OF THE SERVICES

9.1. SCL reserves the right (at its option) to terminate the Agreement or suspend or vary the Services without notice:

9.1.1. if SCL is obliged or requested to comply with an order or instruction of, or a recommendation or request to take such action received from the Government, OFCOM, Radio Communications Agency, PhonepayPlus, an emergency services organisation or a competent administrative authority;

9.1.2. if SCL reasonably believe the Customer has provided false or misleading details about the Customer;

9.1.3. if SCL needs to modify, expand, improve, maintain or repair the Services or vary Network capacity;

9.1.4. if SCL needs to vary the technical specification of the Services in order to comply with any relevant law or regulation or direction from a competent authority;

9.1.5. if SCL advises the Customer that the Customers excessive use of Services is causing problems for other users, and the Customer is continuing to use the Services excessively;

9.1.6. if SCL receives a serious complaint against the Customer which SCL believes to be genuine;

9.1.7. if SCL reasonably believes that the Customer has used the Services or a telephone number for illegal or improper purposes in contravention of SCL's acceptable use policy, requirements or instructions;

9.1.8. if SCL reasonably suspects or believes that the Customer is in breach of Clause 8;

9.1.9. if the Customer fails to comply with its obligations under the Agreement including the obligation to pay the Charges;

9.1.10. if the Customer's credit rating decreases at any time, and the Customer fails to supply reasonable security in response to a request from SCL; or

9.1.11. if SCL's contract with BT or other Network Operator relating to the Calls & Lines Services is suspended, varied or terminated.

9.2. The re-instatement of suspended Services shall be at SCL's sole discretion and the Customer shall nevertheless be responsible for payment of the Charges during any period where the Services are suspended pursuant to Clause 9.1.2, Clause 9.1.9, and Clause 9.1.10.

9.3. SCL shall have the right, without notice, to suspend or deny access to the Network:

9.3.1. by any equipment which will or may adversely affect the operation of the Network or provision of the Services whether or not such equipment has been approved or tested by SCL; or

9.3.2. if SCL suspects criminal or illegal activities are being carried out, or are likely to be carried out, via that equipment or otherwise;

9.3.3. whenever it in its absolute discretion it considers necessary or desirable in order to monitor or reduce the incidence of fraud.

9.4. SCL will use its reasonable endeavours to notify the Customer promptly of the details of any incident where SCL has relied on its rights under Clause 9.3.3. The Customer acknowledges and agrees that it shall be liable to pay the Charges in accordance with Clause 8 whether or not the Services have been used by or with the authority of the Customer and irrespective of any fraud by the Customers. The parties shall work together to establish procedures to reduce fraud or the opportunity for fraud in relation to the Service.

9.5. The Customer acknowledges that BT or other Network Operator's may make alterations to the Calls & Lines Services (including, without limitation, conversions, shifts, reconfigurations and renumbers) which may result in disruption.

9.6. The Customer shall reimburse SCL for all reasonable costs and expenses incurred as a result of the suspension and any recommencement or variation of the Services where suspension or variation is implemented as a result of any act or omission of the Customer.

10. TERMINATION

10.1. The Customer may:

10.1.1. terminate the Agreement (without incurring any Early Termination Fee) by giving a minimum of four (4) weeks prior written notice to SCL such notice to expire on the expiry date of the Minimum Term, the Renewed Term or Subsequent Term (as the case may be); or

10.1.2. terminate the Agreement before the Minimum Term, the Renewed Term or Subsequent Term (as the case may be) has expired but will have to pay the Early Termination Fee to SCL.

10.2. Either Party may immediately terminate the Agreement by written notice if the other Party:

10.2.1. commits a material breach of any of the terms of the Agreement and (if such a breach is remediable) fails to remedy that breach within 14 days of receipt of notice in writing to do so;

10.2.2. commits a material breach that is not capable of being remedied; or

10.2.3. commits an act of bankruptcy or goes into or is put into liquidation (other than solely for the purposes of a reconstruction or amalgamation) or if a receiver or administrator is appointed over all or part of the other Party's assets or the other Party suffers seizure of any of its property for non-payment of monies owing.

10.3. SCL may, without prejudice to any of its other rights under the Agreement, terminate the Agreement with immediate effect by notice in writing without liability to the Customer in the event that:

10.3.1. SCL is not, for whatever reason, permitted or authorised to provide the Services;

10.3.2. SCL reasonably considers that the breach, act, omission or default of the Customer may result in SCL's failure to comply with any applicable legislation or may place SCL in breach of its agreement with the Network Operator;

10.3.3. use by the Customer of the Network or the Services is, or is likely to cause damage to, interrupt or otherwise prevent SCL from supplying the Services to other customers or complying with obligations owed to other customers;

10.3.4. the Customer fails to pay the Charge when due;

10.3.5. such action is required in order to comply with any legislation;

10.3.6. SCL has reasonable grounds to suspect that the Customer is involved in fraudulent or other unlawful activity.

10.4. If the Agreement is signed before SCL has completed its credit check of the Customer, SCL shall be permitted to terminate the Agreement immediately by written notice if the Customer fails to pass SCL's credit policy.

10.5. The rights to terminate the Agreement given by this Clause 10 shall be without prejudice to any other right or remedy of either Party in respect of the breach concerned (if any) or any other breach.

10.6. Following termination of the Calls & Lines Service:

10.6.1. the telephone service may be disconnected unless the Customer makes alternative arrangements with SCL or another communications service provider;

10.6.2. the Customer shall pay to SCL all amounts due to SCL in accordance with the terms of the Agreement;

10.6.3. any provision of the Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Agreement shall remain in full force and effect.

10.7. The Customer may port CLIs to the Network and may also port CLIs from the Network to other third party Network Operators with whom SCL has a porting agreement.

10.8. Due to the nature of porting, the Customer acknowledges certain Services may not be available on CLIs ported to or CLIs ported away from the Network from time to time.

11. LIMITATIONS AND EXCLUSIONS OF LIABILITY

11.1. This Clause 11 sets out SCL's entire liability (including any liability for acts or omissions of SCL's employees, agents or subcontractors) in respect of any breach of the Agreement and any representation, statement or tortuous act or omission arising out of or in connection with the Agreement.

11.2. Except as set out in these Terms, SCL provides no warranties, conditions or guarantees as to the description or quality of the Services, and all warranties, conditions or guarantees implied by or expressly incorporated as a result of custom and practice, statute, common law or otherwise are hereby expressly excluded so far as permitted by law.

11.3. Subject to Clause 11.5, SCL's aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Agreement shall not exceed £1,000,000 (one million pounds sterling).

11.4. Subject to Clause 11.5, SCL shall not be liable to the Customer whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation or otherwise the Agreement, for:

11.4.1. loss of profits; or

11.4.2. loss of revenue;

11.4.3. loss of income or business;

11.4.4. depletion or loss of goodwill, reputation or similar losses;

11.4.5. loss of anticipated savings;

11.4.6. loss of use;

11.4.7. loss of contract;

11.4.8. any indirect or consequential or special loss or damage or pure economic loss, costs, damages, charges or expenses whatsoever and howsoever caused.

11.5. Nothing in these Terms shall exclude or limit the liability of SCL for:

11.5.1. death or personal injury resulting from the Company's negligence; or

11.5.2. for fraud or fraudulent misrepresentation; or

11.5.3. for any matter which it would be illegal for SCL to exclude or attempt to exclude its liability.

11.6. The provisions of this Clause 11 shall survive termination or expiry of the Agreement.

12. **CONFIDENTIALITY AND DATA PROTECTION**

12.1. During the term of the Agreement and for three (3) years after termination, the Customer shall keep all Confidential Information in strict confidence. The Customer may disclose Confidential Information to its employees that need to know it and who agree to use it exclusively for the purposes contemplated by the Agreement. This Clause shall not apply to information that the Customer can prove:

12.1.1. is in the public domain otherwise than by the Customer's breach;

12.1.2. it already had in its possession prior to obtaining the information directly or indirectly from SCL; or

12.1.3. a third party subsequently disclosed to the Customer free of restrictions on disclosure and use.

This Clause shall survive for three (3) years from when the Customer acquired that Confidential Information from SCL.

12.2. SCL and the Customer shall each comply with there respective obligations under the DPA and maintain all relevant registrations and notifications.

12.3. The Customer agrees that SCL may provide its Personal Data to SCL's Network Operator to enable it to process the Customer's information and users personal data, which SCL collects or which the Customer submits to SCL during any sales or registration process, for a number of purposes, including to open and manage an account for Services, to deliver products and services ordered by the Customer, for security and emergency service support, for credit checking and fraud prevention, and for product analysis. The Customer further agrees that SCL may contact BT or previous communications service providers of the Customer to obtain information required to perform the Services.

13. **IPR AND OWNERSHIP**

13.1. All IPR relating to the subject matter of the Agreement shall vest in SCL or its licensors, as appropriate and ownership of SCL's Equipment and the System (including any works performed by SCL to connect the Site to the System) shall remain with SCL or its licensors, as appropriate. The Customer:

13.1.1. acknowledges that it shall have no licence, right, title or interest in or to any IPR of SCL or its licensors or SCL's Equipment or the System;

13.1.2. may not include SCL's name or any other trade mark, brand name, logo or get-up associated with SCL without SCL's prior written consent.

13.2. Risk in any rental equipment shall pass to the Customer on delivery. Ownership of rental equipment remains at all times with SCL or other third party owner. The Customer has no right, title or interest in the rental equipment except that it is provided to the Customer for the duration of and on the terms of the Agreement.

13.3. This Clause shall survive termination or expiry of the Agreement.

14. **CIRCUMSTANCES BEYOND REASONABLE CONTROL**

14.1. Neither Party shall be liable for any delay in performing its obligations under the Agreement caused by circumstances beyond its reasonable control. These are circumstances such as, but not limited to, Acts of God, insurrection or civil disorder or military operations, national or local emergency, acts or omissions of government or other competent authority or regulatory authority, fire, flood, lightning or other weather of exceptional severity, subsidence, explosion or industrial disputes. This Clause does not apply to the Customer's obligation to pay the Charges.

14.2. If either Party is affected by circumstances beyond its reasonable control, it shall notify the other Party and shall use reasonable endeavours to overcome the effects. If those effects continue for more than three (3) months, the Parties shall enter into a discussion to agree, in good faith, the best way forward.

15. **NOTICES**

15.1. Notices must be in writing. The address for service on SCL (subject to any change notified by SCL) is: Southern Communications Ltd, Glebe Farm, Down Street, Dummer, Hants, RG25 2AD. The address for service on the Customer is as set out in the most recent invoice.

15.2. Notices may be delivered by hand, sent by first-class mail, fax or e-mail. Correctly addressed notices if delivered by hand, shall be deemed to have been delivered at the time of delivery, if sent by first-class mail shall be deemed to have been delivered 72 hours after posting, correctly directed faxes shall be deemed to have been received instantaneously on transmission and in proving the service of any notice by e-mail, it will be sufficient to prove that such e-mail was sent to the specified e-mail address of the addressee.

16. **ENTIRE AGREEMENT**

16.1. It is acknowledged and agreed that the Agreement (including the documents and instruments referred to herein) (the **Documents**) shall supersede all prior representations arrangements understandings and agreements between the parties relating to the subject matter hereof and shall constitute the entire complete and exclusive agreement and understanding between the parties hereto;

16.2. The parties irrevocably and unconditionally waive any right they may have to claim damages for any misrepresentation arrangement understanding or agreement not contained in the Documents or for any breach of any representation not contained in the Documents (unless such misrepresentation or representation was made fraudulently);

16.3. It is further acknowledged and agreed that no representations arrangements understandings or agreements (whether written or oral) made by or on behalf of any of the other parties have been relied upon other than those expressly set out or referred to in the Documents.

17. **GENERAL**

17.1. **Assignment and other dealings.**

17.1.1. SCL may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights under the Agreement and may subcontract or delegate in any manner any or all of its obligations under the Agreement to any Authorised Party, third party or agent.

17.1.2. The Customer shall not, without the prior written consent of SCL, assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Agreement.

17.2. **Severance.** Each of the clauses of these Terms operates separately. If any court or relevant authority decides that any of them are unlawful, the remaining clauses will remain in full force and effect.

17.3. **Waiver.** Any failure by SCL to exercise or enforce its right under the Agreement shall not be a waiver of that right, nor prevent SCL from exercising or enforcing such right at a later time.

17.4. **No partnership or agency.** Nothing in the Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, nor constitute either party the agent of the other for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.

17.5. **Third parties.** A person who is not a party to the Agreement shall not have any rights to enforce its terms.

17.6. **Variation.**

17.6.1. SCL shall be entitled to reasonably amend the Agreement at any time upon notice to the Customer if there is any amendment to the agreement between SCL and the network provider which directly or indirectly impacts upon the Agreement.

17.6.2. Except as set out in these Terms, no variation of the Agreement, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by SCL.

17.7. **Governing law.** The Agreement, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with English law.

17.8. **Jurisdiction**. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the Agreement or its subject matter or formation (including non-contractual disputes or claims).